24. Difficulties experienced by the public on account of the Municipal and Income-tax Regulations.

Mr. Ninan Ipe (Member, Trading Classes, Kottayam) spoke on the hardships experienced by the people on account of the working of the Income-tax and the Municipal Regulations. He said that most of the Income-tax Inspectors did not understand the principles of the Income-tax Regulation and that the assessment orders passed by collectors on the basis of the information furnished by the Inspectors were consequently defective. The collectors themselves were leaving the major part of the work of assessment to their clerks who had little knowledge either in book-keeping or in the examination of accounts. Merchants who were employing better clerks than those in the collectors' offices had to wait on the latter with their accounts even though they produced returns of income certified by approved or chartered accountants. Rule 14 of the Rules issued under the Income-tax Regulation provided that, when certified returns were produced, a separate scrutiny of the assessees' books should be dispensed with, unless there were special reasons rendering such scrutiny desirable, but that rule was not observed in practice. Another difficulty lay in the divergent interpretations put upon the several Sections of the Regulation for purposes of assessment of income derived from different sources. To remedy that evil, the Member suggested that the following Sections of the Regulation might be amended as indicated below:—

Under Section 2 (iv) the income from any building owned or occupied by the receiver of rent in kind or revenue of any land used for agricultural purposes and assessed to land revenue was defined to be agricultural income and exempted from income-tax, provided that the building was in the immediate vicinity of the land and was a building which he, by reason of his connection with the land, required as a dwelling house, storehouse or other out-building. The Member said that the above provision enabled the collector to assess the income from any house property as he liked. He, therefore, prayed that, in assessing the income derived from house property, dwelling houses in the occupation of the owner and built on his own land might be excluded. He also said that, on the strength of Section 3 (i), collectors were calculating interest on money lent whether such interest was actually received or not. Since the amount of interest accruing on the principal was not generally received then and there, the Member prayed that no income under interest should be taken into account, unless it was actually received or entered in the accounts as income. That point had been decided in *The Secretary of the Board of Revenue V. Arunachalam Chettiyar*, 39, M. L. J. 649, and the Member suggested that the principle enunciated therein might be followed in Travancore also.

Another point referred to by the Member was the assessment of the income of companies. The provision in the Regulation relating to refunds to shareholders receiving dividends from a company was not beneficial to most of the assessees; for the number of the shareholders in joint stock companies was small and the dividends received by them were very insignificant. It was, therefore, hard that income-tax at the maximum rate should first be levied from the company and the shareholders should then be asked to apply for refund. To remove the evil, the Member prayed that the income-tax due on the amount of dividend should not be levied from the company, but only from the shareholders. If that could not be done, he prayed in the alternative that, whenever a shareholder gave an affidavit that he had no taxable income, the company might be empowered to deduct the dividend due to him from the income of the company chargeable to income-tax.

The Member next said that the assessment orders passed by collectors after examining the accounts of the assessees and the evidence produced by them were often arbitrary. As a matter of fact, collectors did not know and could not explain under what item the assessees had more income than that shown in their returns. The Member suggested that the assessment orders might contain that information in future.

Other difficulties referred to by the Member were (1) that D Form Notices were not being promptly served on the assessees and that in many cases the period

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of 30 days, within which returns of income had to be submitted, elapsed before the notices were received; (2) that receipts were not granted for the account books and other valuable records produced before the collectors; and (3) that the assessees knew of the assessment orders of the collectors only when the assessment notices were served on them, and that, at that late stage, it was inconvenient to get copies of the collectors' decisions and then prefer appeals. To avoid that inconvenience he prayed that a copy of the collector's decision might be given, free of cost, along with the assessment notice served on the assessee whenever the income fixed by the collector was higher than that shown in the returns furnished.

The Member stated in conclusion that, under the existing rules, an auditor who examined the accounts of an assessee had to certify that "proper books of accounts have been kept on a recognised system in English or in one of the vernaculars of the State and closed and balanced from year to year". As there were very few merchants who could understand such a system of accounts and as it would not be feasible for merchants to appoint special accountants for the purpose, the Member prayed that the above form of the certificate be modified and the wording that proper accounts furnishing the necessary information are maintained be substituted instead.

Turning next to the Municipal Regulation, the Member said that, though Section 244 of the Regulation laid down that bye-laws should be framed to regulate the time and mode of levying municipal taxes, the Kottayam Municipality was levying tolls on animals, carts and other vehicles without framing any bye-laws for the purpose. He also brought to notice that the bye-laws of the different Municipalities were not uniform, that different taxes and tolls were being levied by different Municipalities, that tolls were being levied on boats plying in canals and rivers, although the Municipalities concerned were not spending anything for the maintenance of such waterways and, that a loaded cart passing through a town had to pay a toll to the Public Works Department to pass along the road, another to the Municipality for entering the municipal limits and a third (fee) for entering the market. The multiplicity of tolls was a real hardship to the people and he prayed that the same might be removed by directing that only one impost should be levied on a vehicle for any one day. Another point referred to by the Member was that, though the Municipal Regulation prescribed that markets should be held only in buildings or sheds, there were no such buildings or sheds in many municipal markets. The Member prayed that that grievance might also be redressed.

Dewan's reply.—The speeches of Messrs. V. R. Gopala Pillai, Ninan Ipe and Ouseph Thoma cover many common points. They have pointed out a number of defects in the actual working of the Income-tax Regulation. They have also dealt with certain important provisions of the Regulation and certain matters which are open to doubt and which require elucidation.

The Income-tax Regulation, it must be remembered, is a very difficult Regulation to work. I had occasion to work the Income-tax Act in British India for over twenty years, and I know how difficult it is to work that Act. It took quite over thirty years in British India to reduce the working of the Income-tax Act into some sort of order. It is, therefore, too much to expect that, in the course of a year or eighteen months, the working of the Income-tax Regulation should be perfect in Travancore. There may be defects in the working of the Regulation. It is the constant examination of the defects and the measures taken to remedy those defects that must render the working of the Regulation more and more acceptable gradually. I trust the Income-tax Commissioner will be in a position to effect improvements gradually. When he inspects the offices of the several collectors, he will, I am sure, observe the defects that are now prevalent and will take the necessary measures to remove those defects.

Then, you say that, in taluk offices and in the offices of the Division Assistants, the establishment that handles these accounts is not competent to examine them intelligently. I am at a loss to understand this complaint because, in the recent

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reorganisation of Taluk and Divisional offices, special care has been taken to appoint clerks of better mental calibre. We raised their salaries, and the intention of the Government was to employ at least a few clerks who would be competent to handle these accounts. In Divisional offices, special clerks, drawing about Rs. 50 or so, were provided for income-tax work. Government expect the collectors themselves to examine these accounts personally; they should not be satisfied with the examination conducted by their clerks. We have appointed, with the kind sanction of the Legislative Council, a few Income-tax Inspectors for the important towns, men who have received a certain amount of special training in the examination of accounts, and who are expected to help the collectors in the examination of the more important accounts. I shall ask the Income-tax Commissioner to see that the examination of accounts is entrusted to clerks who are competent to deal with them. You cannot expect to have certified auditors in every Taluk office. That is not a practical proposition. Even to get the present establishment, Government experienced considerable difficulty. Very often it is said that retrenchment has not been carried far enough, but if you are to carry retrenchment any further, you cannot get competent establishment to deal with matters like this. As I have already stated, the examination conducted by the clerks must be subjected to a second examination by the collectors, and the collectors should see that their clerks do not abuse the opportunity given to them of preliminarily examining the accounts.

You have also brought to my notice that receipts are not granted for the account books produced before collectors. I shall ask the Income-tax Commissioner to issue instructions to the collectors to see that receipts are invariably granted for the account books produced before them. The account books are very important and I think it is only proper that receipts should be given when they are produced and that they should be duly accounted for. Some definite responsibility should be accepted by these officers in regard to the safe custody and prompt return of account books to the parties.

Then, in regard to the detention of accounts, a circular has already been issued by the Income-tax Commissioner enjoining on collectors that account books should not be detained beyond one day, and that, if it is necessary to detain them for more than a day, the parties concerned should be allowed to produce them again. If there is a breach of the circular, the matter should be brought to the notice of the Income-tax Commissioner.

In regard to the suggestions that have been made for the revision of the provisions of the Regulation, it is not easy to give an answer at once, because each of them requires very careful consideration. For instance, Mr. Thoma said that the exemption from income-tax, which life insurance premia now enjoy, should be extended to payments and contributions made towards chitties. It is difficult to see the analogy between the two. Life insurance is a provision made for a man's heirs after his death, while, in the case of chitties, the money is taken back by the contributor himself after a few years. It is difficult to say at once whether chitties partake of the character of life insurance or not and the matter requires further scrutiny

Another question raised is with regard to the dividends paid by joint stock concerns. There is a provision in the Regulation to the effect that, when the persons receiving such dividends are assessable to income-tax, the dividends should be excluded from the assessment. The suggestion is now made that these dividends should be exempted at their very source, that is to say, that the dividend portion of the joint stock concern's profit should be deducted and the balance alone assessed to income-tax. That again requires very careful examination. There may be cases in which a person may derive income, but that income may not be liable to income-tax. On that dividend, an income-tax is now obtained. Under your suggestion the income-tax on that portion of the dividend will have to be forgone. Whether it is right to impose income-tax on that dividend is a question which requires further examination.

Mr. Gopala Pillai has touched on income from *thanathu* lands. That is a point to which I gave a reply last year. I then said that income from *thanathu* lands should be assessed. I still adhere to that opinion. Mr. Gopala Pillai points

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out that *thanathu* lands have only to be alienated to escape income-tax. Unless *thanathu* lands become Pandarapattom and as such liable to full assessment, and as long as they bear a favourable assessment, it is doubtful if the income from those lands could be exempted from income-tax. I am only dogmatising now, but that is the view that strikes me for the time being. The difference between the full assessment and the favourable assessment would probably be the income on which income-tax is payable. The matter is one, however, which requires closer examination.

Again, you have referred to the interest on arrears of *pattom* and *michavaram*. I do not see why such interest should not be subject to income-tax. Then you say that the rental value of houses occupied by the owners should be wholly exempt from income-tax. The principle has all along been to estimate the rental value of the houses which are occupied by owners to allow a rebate of one-sixth of that value for repairs, etc., and to levy income-tax on the remaining five-sixths. We will be making a new departure if we adopt the suggestion. That also needs further examination.

Another point that was raised was that the interest actually *received* should alone be taxed, and not the interest that has accrued, if it has not actually been received. Mr. Gopala Pillai has quoted a certain decision of the Madras High Court in support of that view. If that is the correct view of the law, I am sure that the Income-tax Commissioner will issue instructions accordingly or refer the question to the High Court for an authoritative ruling.

Another thing that Mr. Gopala Pillai touched upon was interest on debenture loans. Interest on these loans is exempt from income-tax. But whether it should be taken into account in arriving at the total income of an individual for deciding his liability to taxation is a moot question requiring consideration.

In regard to the above matters, all that I can tell you now is that I shall ask the Income-tax Commissioner to examine them and express his opinion. His opinion, when received, will be carefully considered by the Government and orders issued where necessary.

Then, in regard to confidential enquiries, such enquiries have to be made only in cases in which the assessees fail to send returns of income, or to produce satisfactory evidence of the correctness of the income returned. If an assessee fails to produce his accounts which could be accepted or any other evidence on the strength of which his income could be fixed, the collector has necessarily to fall back upon confidential enquiries. Such cases must be very rare, but they cannot be completely avoided. If an assessee produces satisfactory accounts or other evidence from which his income may be fairly estimated, I do not think that there is any need to rely on confidential enquiries.

Then you refer to penalties, and the stay of proceedings pending appeals. In regard to these two matters, I think it would be wrong to approximate the procedure relating to income tax to that of land revenue. There is a fundamental difference between land tax and income-tax. Land tax is taken from the rich and the poor alike. Any collection of land tax which has to be eventually refunded is liable to cause much hardship. In the case of income-tax, it can be soon adjusted ; it is not collected in such small sums as land revenue ; and it is paid by the rich man and not by the poor man. I do not, therefore, think that penalties should be abrogated, or that, as a matter of course, payments should be stayed pending disposal of appeals. At present, it is open to the assessees to move the collector for the needed relief in this respect under Section 34 of the Income-tax Regulation.

Then, as regards the Municipal Regulation, Mr. Ipe referred to the want of bye-laws regarding the levy of tolls, vehicle tax, etc. Bye-laws are being submitted by Municipal Councils and I think many of them have been approved and published in the Gazette. Therefore, the difficulties he raises will very soon disappear.

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